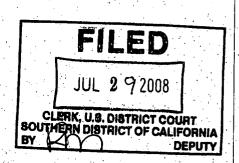
TONY MABRY				
NAME D-90450				
PRISON NUMBER		- 123		
CSP-CALIPATI	RIA F	. O . B	OX 50	004
CURRENT ADDRESS C	R PLAC	E OF CO	VFINEME	NT
CALIPATRIA,	CA.	9223	3	
CITY, STATE, ZIP COI	DE			



United States District Court SOUTHERN DISTRICT OF CALIFORNIA

TONY MABRY 08-0965 BEN (LSP) Civil No (FULL NAME OF PETITIONER) (TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT) HILL V ALASKA SUPRA (2002) AEDPA DOES NOT APPLY; THIS IS A PAROLE MATTER: LARRY SMALLS FIRST AMENDED (NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE PETITION FOR WRIT OF HABEAS CORPUS CALIFORNIA DEPARTMENT OF CORRECTIONS]) RESPONDENT UNDER 28 U.S.C. § 2254 and BY A PERSON IN STATE CUSTODY HILL V ALASKA, 297 F.3D 895,897 The Attorney General of the State of (9TH. CIR 2002) FIRST TERM CHALLENGE California, Additional Respondent. TO COMPUTATION OF RELEASE DATE: Name and location of the court that entered the judgment of conviction under attack: RIVERSIDE COUNTY SUPERIROR COURT: Date of judgment of conviction: 4-17-91 Trial court case number of the judgment of conviction being challenged: CR37941 42 YRS 8 MONTHS: 4. Length of sentence: _

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5. Sent	ence start date and projected release date: Start: 6-11-1991
p	rojected release date 12-2-2018
· <u>(P</u>	ense(s) for which you were convicted or pleaded guilty (all counts): RINCIPAL-TERM/Count-4 246 PC) (Subordinate term/Cnt. 1/187) (Count 2/12021) (667 A)
7. Wha (a) (b)	Not guilty Ck Guilty
8. If yo (a)	Nolo contendere ou pleaded not guilty, what kind of trial did you have? (CHECK ONE) Jury Judge only Judge Judge Judge Judge Judge Judge
•	you testify at the trial? es □ No
•	DIRECT APPEAL you appeal from the judgment of conviction in the California Court of Appeal? es No
11. If vc	ou appealed in the California Court of Appeal, answer the following:
	Result: N/A HILL V. ALASKA SUPRA (2002) SEE PAGES 6 & 7/6-14/KU
	Date of result (if known):
• •	Case number and citation (if known): <u>E009598 4TH. Appell. Dist.E01259</u> 5
	Names of Judges participating in case (if known)
(e)	Grounds raised on direct appeal: N/A
	ou sought further direct review of the decision on appeal by the <u>California Suprement</u> (e.g., a Petition for Review), please answer the following:
	Result:
(b)	Date of result (if known):
(c)	Case number and citation (if known): N/A A-D
(d)	Grounds raised:
	4

	Result:				
(b)	Date of result (if known):				
	Case number and citation (1	
	·			1	
(d)	Grounds raised:			171	
				<u> </u>	, u
	<u>· · · · · · · · · · · · · · · · · · · </u>				······································
	•			•	
	<u>COLLATER</u>	AL REVIEW	N STAT	E COURT	•
Othe	r than a direct appeal from th	e judgment of a	conviction	and sentence	e, have you
. Ouic previ	ously filed any petitions, app	olications, or mo	otions (e.g	., a Petition f	or Writ of Habea
Com	us) with respect to this judge	ment in the Cali	fornia S	perior Cour	<u>t</u> ?
					_
	es 🗆 No	• • • •			
:	es 🗆 No				
:	es □ No ur answer to #14 was "Yes,"	give the follow	ing infor	nation:	: .
. If yo	ur answer to #14 was "Yes,"				
. If yo (a)	ur answer to #14 was "Yes," <u>California Superior Cour</u>	t Case Number	(if know		
. If yo (a)	ur answer to #14 was "Yes,"	t Case Number	(if know		
. If yo (a) (b)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding:	t Case Number	(if know		
. If yo (a) (b)	ur answer to #14 was "Yes," <u>California Superior Cour</u>	t Case Number	(if know		
. If yo (a) (b)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding:	t Case Number	(if know		
. If yo (a) (b)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding:	t Case Number	(if know		
. If yo (a) (b)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding:	t Case Number	(if know		
(a) (b) (c)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding: Grounds raised:	t Case Number	(if known	1):	on or motion?
(a) (b) (c)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding:	t Case Number	(if known	1):	on or motion?
(a) (b) (c)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding: Grounds raised: Did you receive an evident Yes No	t Case Number	(if known	1):	on or motion?
(a) (b) (c)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding: Grounds raised: Did you receive an evident Yes No	t Case Number	(if known	1):	on or motion?
(a) (b) (c)	ur answer to #14 was "Yes," California Superior Cour Nature of proceeding: Grounds raised: Did you receive an evident	t Case Number	(if known	1):	on or motion?
(a) (b) (c) (d) (e) (f)	Did you receive an evident Yes \(\sum \) No Result: Date of result (if known):	t Case Number	your petit	ion, applicati	
(a) (b) (c) (d) (e) (f)	Did you receive an evident Yes □ No Result: Date of result (if known):	t Case Number iary hearing on	your petit	ion, application and sentence	e, have you
(a) (b) (c) (d) (e) (f)	Did you receive an evident Yes □ No Result: Date of result (if known):	t Case Number iary hearing on	your petit	ion, application and sentence	e, have you
(a) (b) (c) (d) (e) (f)	Did you receive an evident Yes \(\sum \) No Result: Date of result (if known):	t Case Number iary hearing on he judgment of plications, or m	your petit	ion, application and sentence g., a Petition	e, have you for Writ of Habea

(a)	California Court of Appeal Case Number (if known):
(b)	Nature of proceeding:
(c)	Names of Judges participating in case (if known)
(d)	Grounds raised:
	Did you receive an evidentiary hearing on your petition, application or motion?
	☐ Yes ☐ No
	Result:
(g)	Date of result (if known):
ΠY	iously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habe bus) with respect to this judgment in the <u>California Supreme Court</u> ? es No
□ Y If yo	ous) with respect to this judgment in the California Supreme Court? es No our answer to #18 was "Yes," give the following information:
□ Y If yo (a)	ous) with respect to this judgment in the California Supreme Court? es
□ Y If yo (a)	ous) with respect to this judgment in the California Supreme Court? es No our answer to #18 was "Yes," give the following information:
□ Y If yo (a)	ous) with respect to this judgment in the California Supreme Court? es
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? es
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? es
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? es
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? es
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? our answer to #18 was "Yes," give the following information: California Supreme Court Case Number (if known): Nature of proceeding: Grounds raised:
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? our answer to #18 was "Yes," give the following information: California Supreme Court Case Number (if known): Nature of proceeding: Grounds raised:
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court? our answer to #18 was "Yes," give the following information: California Supreme Court Case Number (if known): Nature of proceeding: Grounds raised: Did you receive an evidentiary hearing on your petition, application or motion?
☐ Y If yo (a) (b)	ous) with respect to this judgment in the California Supreme Court of No our answer to #18 was "Yes," give the following information: California Supreme Court Case Number (if known): Nature of proceeding: Grounds raised: Did you receive an evidentiary hearing on your petition, application or motion? Yes □ No Result:

20.	If you did not file a petition, application or motion (e.g., a Petition for Review or a Petition
	for Writ of Habeas Corpus) with the California Supreme Court, containing the grounds
٠.	raised in this federal Petition, explain briefly why you did not:
	Im challenging my "release date" under (Hill v. Alaska).SUPRA
	(TERM COMPUTATION) (ILLEGAL COMMITMENT)
	THIS IS A PAROLE MATTER ABRIDGED BY THE ENTITY/CDCR:
	MORRISSEY V BREWER U.S. (1972): (CHALLENGING THE EXECUTION OF THE SENTENCE)
	COLLATERAL REVIEW IN FEDERAL COURT
	Is this your first federal petition for writ of habeas corpus challenging this conviction? AMEND Yes No (If "Yes" Skip to #22) (a) If no, in what federal court was the prior action filed? (i) What was the prior case number? (ii) Was the prior action (CHECK ONE): Denied on the merits? Dismissed for procedural reasons?
	 (iii) Date of decision:
CAL	 Exhaustion of State Court Remedies: In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present all other grounds to the California Supreme Court before raising them in your federal Petition. Single Petition: If you fail to set forth all grounds in this Petition challenging a specific
	judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
•	• Factual Specificity: You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

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(EXHAUSTION)

THE PETITIONERS BURDEN OF PROVING THAT A CLAIM HAS BEEN EXHAUSTED PETITIONER SUBMITTS:

- 1. ALL 5-OF PET. GROUNDS ARE TO BE CONSTRUED BY WAY OF: HILL V ALASKA SUPRA (2002); 2244 EQUITABLE TOLLING DOES NOT APPLY; (CITE) WINTHROW V WILLIAMS SUPRA (1993);
- 2. PETITIONER SUBMITTS (PAROLE-MATTER) EXHAUSTION/
 ADMINISTRATIVELY-CDCR-602; TO CHALLENGE FEDERAL VIOLATIONS OF PAROLE
 MATTERS...SEE APPENDIX E-1: FEDERAL VIOLATIONS DEALING WITH PAROLE
 MATTERS THAT HAVE ARISED AFTER PETITIONER IS IN CUSTODY IN WHICH
 HE HAS KNOW WAY OF KNOWING THERE GOING TO OCCUR OR HAS OCCURED UNTO
 PET. KNOWLEDGE: (WHILE PETITIONER SERVING HIS DETERMINATE SENTENCE) 1.

ALL OF PETITIONERS CLAIMS ARE TO BE CONSTRUED BY WAY OF EQUAL PROTECTION TO LIFE & LIBERTY UNDER THE U.S. CONSTITUTION: FOURTEENTH AMENDMENT

THE PETITIONER DID NOT SEEK REVIEW IN THE CALIF. SUPREME CRT. BECAUSE THIS IS A (PAROLE MATTER/EXECUTION OF SENTENCE) THATS BEEN ABRIDGED BY THE CALIFORNIA DEPT. OF CORRECTIONS & REHAB. AND NOT THE STATE CRT.

UNDER 28 U.S.C. 2254 (A) I'AM IN CUSTODY IN VIOLATION OF THE U.S.C.A. 14TH AMENDMENT; PETITIONER IS PROPERLY HERE BEFORE THIS DISTRICT COURT ALLEGING EXHAUSTION SINCE PETITIONERS CLAIMS INVOLVES THE MANNER IN WHICH PRISON AUTHORITIES IMPLEMENT A SENTENCE RATHER THAN THE UNDERLYING CONVICTION. (CITE) WINTHROW V WILLIAMS SUPRA (1993); (CITE) DOGANIERE V UNITED STATES, 914 F.2D 165,169-70 (9TH. CIR 1990)

PETITIONER HERE PRESENTS HIS CLAIMS UNDER (CITE) HILL V ALASKA SUPRA (2002); CHALLENGING THE CONSTITUTIONALITY OF THE EXECUTION OF SENTENCE; & NOT THE CONVICTION OR SENTENCE, WHICH HILL IS (NOT) A REMEDY FOR.

FOR CASES IN WHICH AEDPA IS INAPPLICABLE, FEDERAL COURTS ARE REQUIRED TO RESOLVE "DE NOVO" A STATE PRISONERS HABEAS CORPUS CLAIMS; (CITE) BROWN V ALLEN, 344 U.S. 443,458,73 S. CT. 397,97 L.ED.2D469 (1953)

1.) ALL FEDERAL VIOLATIONS WERE COMMITTED WHILE CDCR EXECUTED PETITIONERS DETERMINATE SENTENCE....

& CONTINUED ON CAUSING PETITIONERS ENTIRE TERM TO BE EXECUTED UNCONSTITUTIONALLY...

CONTINUANCE OF: EXHAUSTION

MORRISSEY V BREWER, 408 U.S. 471 (1972), CONTINUANCE OF CONFINEMENT, PETITIONER IS IMPRISONED BASED UPON PAROLE REVOCATION PROCEDURES WHICH DO NOT APPROACH THE MOST MINIMAL REQUIREMENTS FOR DUE PROCESS:..

PETITIONER FILED ADMINISTRATIVE REMEDY CDCR/602 (12-14-07)...SEE APPENDIX E-1:...

NGO V WOODWARD (9TH. CIR 2005) PETITIONER HAD EXHAUSTED ALL AVAILABLE ADMINISTRATIVE REMEDIES WHEN APPEAL WAS SCREENED OUT;
PREISER V RODRIGUEZ, 411 U.S. 475 499 6 LED 2D 439,455,93 S CT 1827;

AS PETITIONERS CDCR/602-APPEAL ALSO COVERS BURDEN THAT HIS CLAIMS HAVE BEEN EXHAUSTED; AS PET. HERE CONTINUES TO CHALLENGE THE EXECUTION OF HIS SENTNENCE: CARTWRIGHT V CUPP (9TH. CIR 1981); 1.

Petitioner is properly before this "Southern District Of California" in which a sentence is being executed, the district of confinement is the preferable forum. See <u>Dunn v. Henman</u>. 875 F.2d 244, 249 (9TH. cir 1989) (Stating, in 28 U.S.C. 2241 action, that the proper forum to challenge the execution of a sentence is the distrisct where the prisoner is confined.); <u>Russo v. Newland</u>, 2000 WL 194892. *1 (N.D.CAL.); accord, In re Phelon, 2002 WL 31618536, *1 (N.D.CAL.); <u>Thomas v. Hepburn</u>, 2001 WL 505916, *1 (N.D.CAL.); <u>McKnight v. Forman</u>, 1997 WL 50267, *1 (N.D.CAL.).

FAILURE OF THIS COURT TO ALLOW PETITIONER TO ENTERTAIN THESE CLAIMS WOULD RESULT IN A FUNDAMENTAL MISCARRIAGE OF JUSTICE.(CITE) McCKLESKY V ZANT, 113 L. ED. 2d517,111 .CT.S 1454,1470 (1991);

NOTE: ALL STATE ERRORS MENTIONED WITHIN THE SUPPORTING FACTS ARE (ONLY) USED TO "NOT" MAKE AN BALD ASSERTION.

AS PETITIONER DESCRIBES THE FEDERAL CONSTITUTIONAL VIOLATIONS COMMITTED BY THE PRISON OFFICIALS WHOM ARE RESPONSIBLE FOR EXECUTING PETITIONERS SENTENCE:

PETITIONER ONLY HERE CHALLENGES THE EXECUTION OF HIS SENTENCE & NOT THE CONVICTION.

PETITIONER INCLUDES HABEAS RULE 2(E) BEING THAT HE IS A PRO SE PETITIONER (LIBERAL CONSTRUED FOR PRO SE PRISONERS PLEADING) BOAG V MCDOUGALL, 454 U.S. 364, 365 (1982);

1. THE STATES CORRECTIVE PROCESS IS INEFFECTIVE WHEN DEALING WITH PERSON AL JURISDICTION/PAROLE MATTER; (CITE) DUCKWORTH V SERRANO 454 U.S.

1,3 N.2 (1981); PETITIONER HAS COLORABLE CLAIM THAT DOES MEET THE EXCEPTIONS FOR 2254 (B) 1 (B) (1) & (2) (CITE) GRANBERRY V GREER SUPRA, 481 AT 135;

THE STATE CRT'S. OR SOME STATE OFFICIAL/S LED THE PETITIONER TO BELIEVE NO REMEDY

FURTHER ARGUMENT FOR EXHAUSTION:

EXISTED; ABSENCE OF STATE CORRECTION PROCESS 2254 (B) 1 (B) 1 & 2. (CITE) DUCKWORTH V SERRANO, 454 U.S. 1,3 N.2 (1981) EXCEPTION WHEN CORRECTIVE PROCESS IS SO CLEARLY DEFICIENT AS TO RENDER FUTILE ANY EFFORT TO OBTAIN RELIEF; (CITE) FAILURE TO EXHAUST WILL NOT BAR FEDERAL HABEAS REVIEW WHERE STATE OFFICIALS HAVE INTERFERED WITH HABEAS PETITIONERS UNTILIZATION OF STATE REMEDIES MAYBERRY V PETSOCK 484 U.S. 946 (1987); HERE IN PETITIONERS INSTANT CASE CDCR/LPU & STATE CRT'S. HAVE INTERFERED WITH PET. STATE REMEDIES FOR THE PAST 6-MONTHS NOT ALLOWING PETITIONER TO OBTAIN ALL THE NECESSARY LEGAL DOCUMENTS TO CHALLENGE THE LEGALITY OF HIS DETENTION DEPRIVING PETITIONER OF AN ADEQUATE REMEDY TO PRESENT CLAIMS TO CRT.:

THE MULTIPLE DENIALS BY THE STATE CRT'S. FOR "LEGAL DOCUMENTS" THAT WILL ASSIST PETITIONER IN CHALLENGING THE EXECUTION OF HIS SENTENCE CAUSED PETITIONER TO BELIEVE (NO) STATE REMEDY EXIST...(SEE APPENDIX E 2,3,4,5)....(2) RIVERSIDE COUNTY SUP. CRT. (12-26-2007) FORGED/NO CRT. CLERK/EX PARTE HEARING (NOT) ON 12-26-2007-DOCKET, MINUTE ORDER TO DENY PET. ACCESS TO THE VERY DOCUMENTS PETITIONER CHALLENGES;...(3-4-5)....SEE FOR OTHER STATE CRT. REQUEST FOR LEGAL DOCUMENTS THAT ENDED UP IN DENIALS NO COOPERATION:

THESE DENIALS DENY PETITIONER FURTHER ACCESS TO CRT. FOR ANY TYPE OF EXHAUSTION/RELIEF AT THE STATE LEVEL.

PRIOR TO FILING FEDERAL HABEAS CORPUS MULTIPLE STATE AGENCIES DENIED PET. ACCESS TO THE VERY DOCUMENTS THAT ARE USED TO EXECUTE PET. SENTENCE.

(CITE) EXHAUSTION NOT REQUIRED WHENEVER IT MAY BECOME CLEAR THAT THE ALLEGED STATE REMEDY IS NOTHING BUT A PROCEDURAL MORRAS OFFERING NO SUBSTANTIAL HOPE OF RELIEF GRANBERRY V GREER, 481 U.S. 129,136 N.8 (1987);

CDCR/LPU & STATE CRT'S. HAVE ALL (PURPOSELY) CAUSED PETITIONERS LIBERTY INTEREST TO BE ABRIDGED. PETITIONER CAN NOT EXSPECT ANY COOPERATION FROM THE VERY AGENCIES RESPONSIBLE FOR HIM BEING ILLEGALLY HELD IN CUSTODY IN VIOLATION OF FEDERAL LAW 5-8-14TH. U.S.C.A. ESPECIALLY WHEN THEIR VIOLATIONS ARE SO EGREGIOUS THEY AMOUNT TO A MISCARRIAGE OF JUSTICE. (CITE) FRANK V MANGUM (SUPRA);

EXTRAORDINARY CIRCUMSTANCES: (FOR EXHAUSTION)

HENDRICKS V ZENON, 993 F.2D 664,672 (9TH. CIR 1993) REQUIRING FURTHER STATE PROCEEDINGS WOULD KEEP PETITIONER "ON A TREADMILL" AND VIOLATE RIGHT TO PROMPT DISPOSITION OF HIS CLAIMS:

- 1.) CIVIL RIGHTS VIOLATIONS PET. HAS BEEN SUBJECTED TO WHILE SHOWING DUE DILIGENCE TO CHALLENGE THE EXECUTION OF SENTENCE: (EXAMPLE)

 APP: E 2,3,4,5: SAN FRANCISCO, RIVERSIDE & IMPERIAL COUNTY'S SUPERIOR CRT'S. (NOT) ADHERING TO/& ALLOWING (TRANSFER-ORDER TO EXPIRE) FROM OTHER CRT'S. VIOLATED PET. DUE PROCESS RIGHTS TO LIBERTY & EQUAL PROTECTION AS THEY INTERFERE WITH PET. GAINING ACCESS TO COURTS TO CHALLENGE THE EXECUTION OF SENTENCE. (CITE) BOUNDS V SMITH, 430 U.S. 817,825 (1977);
- A) THE MULTIPLE CDCR/CASE ANALYST THAT HAVE VIOLATED PET. CIVIL RIGHTS

 AS THEY'VE (FORGED THEIR LEGAL DOCUMENTS) EXAMPLE: CDCR CASE RECORDS

 ANALYST PAROLED PETITIONER TO ANOTHER PRISON BY WAY OF FORGING LEGAL

 DOCUMENTS: (SEE PRISON CASE FILE/CDC 1130 &1151-FORMS)
- 2. (PAROLE REVOCATION)

 PETITIONER WAS ILLEGALLY DETAINED IN CDCR/CUSTODY AS CDCR

 DELIBERATELY ABRIDGED PET. LIBERTY INTEREST WHEN FORGING LEGAL

 DOCUMENTS TO PAROLE PET. TO ANOTHER PRISON (MORRISSEY V BREWER,

 408 U.S. 471 (1972); ALONG WITH CIVIL RIGHTS VIOLATIONS/ADDING

 SLANDER TO THEIR FORGED DOCUMENTS IN (1995/6). 1.
- A) CDCR APPLIED ABSOLUTELY NO EQUAL PROTECTION TO PET. LIBERTY INTEREST AS CDCR CONTINUED TO CALCULATE PET. <u>DETERMINATE</u> TERM INTO THE CALIF. PAROLE SCHEME UNCONSTITUTIONALLY BEYOND (1995)-WITH (12-13-95/ABSTRACTS-NOT EVEN ON CRT. RECORD DUE TO BEING AJUDICATED FORGED OFF THE CRT.RECORD...SEE APP: A 3 & 4: FOR CRT. RECORD/NO 12-13-95/ABSTRACTS: NO 5-26-92/ABSTRACTS)
- APPENDIX E 1-A: 6-23-08/ADMINISTRATIVE CDC-602, SHOWS PETITIONERS EXTRA

 DUE DILIGENCE ATTEMPTING TO RESOLVE EXECUTION OF SENTENCE
 ISSUES WITH PRISON OFFICIALS WHOM ONLY SEEM TO FIND

 AN EXCUSE TO (SCREEN OUT) MY GRIEVANCE;
 NGO V WOODFORD (9TH.CIR 2005)

(CONTINUANCE OF EXTRAORDINARY CIRCUMSATNCES)

1. WITHOUT SPEEDIER RELEASE/IMMEDIATE DISPOSITION, PET. WILL CONTINUE TO BE SUBJECTED TO (SLANDER) IN PET. PRISON C-FILE/1995-CDC1151 FORM STIPULATES PETITIONER HAS A CDCR-VISITING RESTRICTION WITH A CHILD VICTIM/1202.5; SLANDERING PET. AS COMMITTING A CRIME AGAINST A MINOR, WHEN PRISON OFFICIALS ARE VERY AWARE OF THE DANGERS INVOLVED WITH PRISONERS WHO HAVE THOSE TYPES OF RECORDS & PET. HAS NEVER HAD THOSE TYPE OF CHARGES; THIS MATTERS MORE CONVINCINGLY HAD CDCR CASE ANALYST NOT INTERFERED WITH PET. ATTTAINING REQUEST FROM SAN BERNARDINO COUNTY'S INDEPENDANTLY...SEE CDC112.... NOR WILL SAN BERNARDINO RESPOND TO PET. NOTICES TO THEIR CRT. FOR RECORD ON THIS MATTER: PETITIONER DOES HAVE FAMILY MEMBER WITH CHILD VICTIM ON RECORD (NOT) INVOLVING PET. AT ALL & CDCR WENT AS FAR AS TO USING PERSONAL RECORDS OF FAMILY MEMBER TO "SLANDER/ENDANGER" & TO KEEP PET. ILLEGALLY DETAINED IN CDCR-CUSTODY BEYOND (1995). THIS PARTICULAR FAMILY MEMBER CAME TO VISIT PET. "LAST" IN DEC. 1995, RIGHT BEFORE CDCR ILLEGALLY PAROLED PET. TO ANOTHER PRISON IN JAN 1996.

FOR THESE REASONS SET FORTH HERE PETITIONER SATISFIES EXTRAORDINARY CIRCUMSTANCES FOR EXHAUSTION; IN LIGHT OF STATE REMEDIES BEING FUTILE WHEN ITS KNOWN STATE OFFICIALS/CDCR & CRT. HAVE ACTED (INCONCERT)

VINDICTIVELY, TO HOLD PETITIONER IN CDCR CUSTODY AGAINST FEDERAL LAW.

(CITE) GRANBERRY V GREER, 481 U.S. 129,131 (1977);

2. CDCR RULES-1202.05: CDCR TITLE-15:

3. 6.15AN BERNARDINO (D.A.) "REQUEST ON OR ABOUT 8-15-94": PETITIONERS PRISON CASE FILE/CDC112 STIPULATES "30-DAY NOTICE PER SAN BRDNO-D.A. PRIOR TO PETITIONERS RELEASE": FAMILY MEMBER MENTIONED IN ABOVE STATEMENT, RESIDENCE IS SAN BERNARDINO IN 1994: PETITIONER HAS REASON TO BELIEVE BESIDES CDCR FALSIFYING THEIR DOCUMENTS TO ILLEGALLY DETAIN PET. IN 1995, THIS REQUEST/SLANDER ASSISTED THIER OBJECTIVE TO CONTINUE PETITIONER ON PAROLE, WITH THE LEAST AMOUNT OF DUE PROCESS: MORRISSEY V BREWER U.S. (1972)

GROUNDS FOR RELIEF

- 22. State concisely every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize briefly the facts supporting each ground. (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground. (CITE)
- (a) GROUND ONE: MORRISSEY V BREWER, 408 U.S. (1972) PETITIONER HAS BEEN IMPRISONED BASED UPON PAROLE REVOCATION PROCEDURES WHICH DO NOT APPROACH THE MOST MINIMAL REQUIREMENTS FOR DUE PROCESS;

Supporting FACTS: CDCR'S METHOD FOR REQUESTING TO THE CRT. TO SEND THEM AMENDED/ABSTRACTS & OR MINUTE ORDERS; SEE APP: C 1,2,3,': AFTER CDCR CLEARLY RECOGNIZED (JUDICIAL) ERRORS WITHIN PET. TERM THAT CANNOT BE AMENDED "SU SPONTE" ORDERS GUISED AS CLERICAL ERRO RS. DEPRIVED PETITIONER OF HIS DUE PROCESS RIGHTS TO LIBERTY UNDER THE U.S. 14TH. AMENDMENT. REVOKING PET. CHANCES AT BEING PAROLED AT AN EARLIER RELEASE DATE AS CDCR'S AMENDMENT ORDERS WERE BEING EXECUTED UNTO PETITIONERS KNOWLEDGE DEPRIVING HIM OF ANY CHANCE TO APPEAL THE AMENDED PORTIONS OF THE MULTIPLE UNCERTIFIED BARREN OF RECORD (ABSTRACTS) AFTER EACH TIME CDCR REQUESTED FOR THEM & RECEIVED THEM WITHOUT THEIR NOTIFICATIONS BEING PROVIDED TO THE PETITIONER.

SEE APPENDIX A 1,2 -B & D: FOR ONE & ONLY FORGED MINUTE ORDER & MULTIPLE BARREN OF RECORD ABSTRACT OF JUDGMENT DOCUMENTS RECEIVED BY CDCR UNTO PETITIONERS KNOWLEDGE:

BEING DEPRIVED OF RIGHTS TO BEING RECORDS DOES RISE TO CONST ITUTIONAL ERROR; U.S. CONST. ARTICLE-4 & 14TH. AMENDMENT;

Did you raise GROUND ONE in the California Supreme Court?

Yes No. N/A HILL V AL	<u>ASKA</u> , 297 F	. 3D 895,897 (9	TH. CIR 200	2) <u>supra</u>
If yes, answer the following:	CHALLENGE	TO CALCULATION	OF RELEASE	DATE
in yes, answer the following.				

(1)	Nature of proceeding (i.e.	, petition for review, habeas petition):	N/A
(2)	Case number or citation: .	N / A	

(3) Result (attach a copy of the court's opinion or order if available): ALSO SEE PAGES 6 & 7...FOR EXHAUSTION....

8,9,10

(b)	GROUND	rwo: M	ORRISSEY	V BREWER U.S	. (197	2); PE	TITIONE	RS PAF	ROLE
	WAS REV	VOKED	VIOLATING	PETITIONERS	CONST	ITUTIO	NAL RIGI	ITS TO)
	LIBERTY	UNDER	THE U.S.	14TH. AMEND	MENT;	WHEN	•,		

Supporting FACTS: PETITIONERS TERM SHOULD HAVE BEEN TERMINATED BY (10-13-95); AT THAT TIME CDCR HAD NOT BEEN SUPPLIED ALL NECESSARY LEGAL DOCUMENTS TO RECORD PETITIONERS COMMITMENT IN A TIMELY MANNER; AT (NO) TIME AFTER "1995" HAS CDCR BEEN SUPPLIED BY THE STATE CRT.

ALL THE RELEVANT COMMITMENT DOCUMENTS TO RECORD PET. RELEASE DATE BEYOND (95); CDCR HAS ONLY AFTER THAT TIME RECEIVED MORE INVALID DOC UMENTATION/ABSTRACTS WITHOUT SETENCING TRANSCRIPTS & VALID MIN.ORDERS; PETITIONERS PAROLE HAS BEEN REVOKED BY CDCR WITHOUT DUE PROCESS & PET. RELEASE DATE CONTINUES TO BE CALCULATED IN ERROR WITH A VOID TERM; DEPRIVING PET. OF HIS RIGHTS TO LIFE AND LIBERTY UNDER THE U.S. 14TH.

AMENDMENT. CDCR ILLEGALLY HOLDS PET. IN CUSTODY WITH INVALID FORGED DOCUMENTS

- 1. SEE APPENDIX C: 2; FOR 10-13-95/CDCR NOT GETTING COMMITMENT DOCUMENTS ON TIME;
- 2. SEE APP: A 1,2: APP: B 4: FOR FORGED COMMITMENT DOCUMENTS;
- 3. SEE APP: C 5: TO VIEW DOCUMENTS OF CDCR CALCULATING PET. TERM KNOWINGLY IN ERROR WELL AFTER (10-13-95);

PETITIONERS LIBERTY INTEREST WERE VIOLATED PRIOR TO (1995)

AS PREVIOUS 5-26-92/ABSTRACTS-BARREN OF RECORD; 1 WERE USED BY CDCR TO COMPUTATE PET. RELEASE DATE UNTO PET. KNOWLEDGE/APRIL 30, 1992/CDCR NOTICE TO STATE CRT.; 2 THIS DEPRIVED PET. CHANCE TO TO CHALLENGE THIS MATTER ON (3-19-93/REMAND);

1. SEE APPENDIX B-1: 2. SEE APP: C-1:

Did you raise GROUND TWO in the California Supreme Court?

- ☐ Yes ☐ No. N/A HILL V ALASKA (9TH CIR 2002) FIRST CHALLENGE TO

 If yes, answer the following:

 CALCULATION OF RELEASE DATE; SUPRA (2002)
 - (1) Nature of proceeding (i.e., petition for review, habeas petition): N/A
 - (2) Case number or citation: N/A
 - (3) Result (attach a copy of the court's opinion or order if available): N/A

 ALSO SEE PAGES 6 & 7... FOR EXHAUSTION....

CIV 68 (Rev. Jan. 2006)

Case 3:08-cv-00965-BEN-LSP Document 4 Filed 07/29/2008 Page 13 of 33 (c) GROUND THREE: MORRISSEY V BREWER U.S. (1972); WERE PETITIONERS LIBERTY INTEREST ABRIDGED UNDER THE U.S. 14TH. AMENDMENT ????CDCR HELD PET. WITH FORGED DOCUMENTS & GRANTED JURISDICTION ? Supporting FACTS: AFTER CDCR'S (10-13-95) NOTICE TO THE STATE CRT. OF (NOT) GETTING PET. LEGAL DOCUMENTS ON TIME TO RECORD PET. COMMIT. CDCR EXCEPTED FURTHER INCOMPLETE BARREN OF RECORD (12-13-95/ABSTRACTS) (CITE) ROGERS V MAGIO, SUPRA 714 F2D AT 37; ABSENCE OF RECORD FOR REASON OF SENTENCE; 1 THE STATE CRT. REDUCED PET. ISL-TERM ON 95/ABS TRACTS-15-TO-LIFE) ONLY TO GUISE ANOTHER JUDICIAL ERROR AS A CLERICAL ERROR & CDCR ACKINEDIA XIKN THIS VIOLATION AS CDCR ALLOWED THE 95/ABSTRACTS TO LAY DORMANT IN PET. PRISON CASE FILE FOR 4YRS. (CITE) WITT V VENTOULO 511 U.S. 1032 (1994) DUE PROCESS CLAUSE PREVENTED THE STATE CRT. FROM IMPOSING LIFE SENTENCE YRS. AFTER CRT. REDUCED SENTENCE IN VIOLATION CDCR ALLOWING (JURISDICTION) OF PET. CASE UNTO HIS OF STATE LAW: 2 KNOWLEDGE OR CONSENT ABRIDGED PETITIONERS LIBERTY INTEREST. (CITE) MORRISSEY V BREWER; HILL V ALASKA; PREISER V RODRIGUEZ, 411 U.S. 475, 499 6 LED 2D 439,455, 93 S CT 1827 (1973);3 RESULTING IN 12-9-99 FOR-GED MINUTE ORDER TO TRY & ESTABLISH THE REFILING OF PET. 667-CHARGE UNDER PEN.C 999; AS THE RECORD IS BARREN OF THIS PC-999 IN (99) OTHER THEN 12-9-99/MINUTE ORDER: 4 NOR IS THERE PREVIOUS RECORD OF PC-999; (CITE) LOFTON V PROCUNIER.487.436 (9TH.CIR 1973)THE RECORD IS BARREN OF PROOF ON DISPUTED MATTER; AS 95/AOJ-15-TO LIFE IS GUISE FOR CORR. IN 12-9-99 1. SEE APPENDIX C 2: COMMITMENT DOCUMENTS NOT SUPPLIED TO CDCR; 3. SEE APP: A-3. FOR JURISDICTION CHANGE: APP: B-4. 95/ABSTRACTS; 4. SEE APP: A-1. FOR 12-9-99/MINUTE ORDER DISPLAYING PC-999;

- Did you raise GROUND THREE in the California Supreme Court?
- ☐ Yes ☐ No. N/A HILL V ALASKA (9TH. CIR 2002) FIRST CHALLENGE TO RELEASE DATE; SUPRA (2002) If yes, answer the following:
 - Nature of proceeding (i.e., petition for review, habeas petition): ____N/A
 - Case number or citation: ___
 - Result (attach a copy of the court's opinion or order if available): N/A

-13-

(c) GROUND: Is this scheme unconstitutional when (CDCR)
violates their own term computation policy when
rearranging the terms recorded on the commitment documents

Supporting FACTS:

(CDCR) computated petitioners term in a manner that should (NOT) have proceeded his release-date beyond the original principal term of 7-yrs. 1

(CDCR'S) own realignment of pet. term/computation, after admitting to (NOT) being able to process pet. commitment documents on time, allows for (CDCR'S) continued computation of petitioners entire-terms in error, despite the in-admissibility due to "time-constraints":HERE CDCR AIDES THE STATE CRT. (AGAIN) FROM BEING RESPONSIBLEFOR CORRECTING ERRORS AS (CDCR TAKES THE MATTER & RESENTENCE PET. IN VIOLATION OF HIS DUE PROCESS RIGHTS.(CITE) MORRISSEY V BREWER 408 US (1972);

See Appendix: "B-1" & "D-3": for petitioners 7 yr. term...

- 2 See app: "C-2"...For CDCR'S admittance of not being able to record pet. commitment documents on time....
- 3 See app: "C-4 & 5"...To view CDCR'S realignment of petitioners term-computation....

Upon a prisoners commitment, (CDCR) case analyst must computate pet.

term by way of Abstract Of Judgment documents as well as sentencing transcripts: 4

(Computating term by way of (OPINION/S) is who constitutional): SEE PETITIONERS PRISON CASE FILE for 1992 1994 - OPINIONS - USED TO COMPUTATE PET. TERM....

(CDCR) must (NOT) change the term recorded on the Abstract of Judgment: A
PER DOM (CDCR):

Did you raise GROUND THREE in the California Supreme Court?

Yes No. N/A HILL V. ALASKA (9TH Cir 2002) First challenge
To term-computation & release date:
HILL V ALASKA SUPRA (2002)

- (1) Nature of proceeding (i.e., petition for review, habeas petition):
- (2) Case number or citation:
- (3) Result (attach a copy of the court's opinion or order if available): ALSO SEE PAGES 6 & 7...FOR EXHAUSTION:

CIV 68 (Rev. Jan. 2006)

FIVE	
(c) GROUND: Was petitioner illegally committed into CDCR	` ·
& term computated in error by way of "NON-legally; invalid	
"Abstract Of Judgment" documents ??? (FORGERIES) ????	
Supporting FACTS: (6-6-91/AOJ) documents have no red filing stamps	
on either form that were used to commit petitioner into (CDCR)	
(6-11-91). The form recording the indeterminate-sentence is	-
(NOT) an actual "1213.5 CR 292/document. This same invalid doc- ment was used again (May 26, 1992) & CDCR excepted both May 26,	
1992/AOJ documents & re-computated petitioners term without	
a minute order & sentencing transcripts, to verify the validity	
of the 1992/AOJ'S. LCDCR ILLEGALLY HOLDS PET. WITH FALSE DOCUME	NIC
Not one set of AOJ-documents that have ever been used to hold	
pet. in CDCR, have (ALL) the red-filing stamps/written signat-	
ures/filing date stamp in upper right corner/stamp signature	
of name, on the entirety of anyone of the AOJ'S being used by	
CDCR, to hold petitioner in their custody. See app. A, B & D	
¶See appendix D-1, 2, 3: For both invalid NON 1213.5 forms &	
invalid/6-6-91/DSL 290 form: See app. $B-1$: For invalid 5-26-92	
DSL 290-form, no red filing stamps, that accompanied the	
invalid/NON 1213.5/5-26-92 form; (ALL) having conflicting	
signatures & dates of signing witnessing parties.	
⚠ See prison case file/CDC112, to see term recomputated 7-21-92	
by way of invalid (5-26-92) AOJ-documents	
5-8-14TH. U.S.C.A.	
Did you raise GROUND THREE in the California Supreme Court?	
☐ Yes ☑ No. N/A HILL v. ALASKA (9TH Cir 2002): First challenge	
If yes, answer the following term computation & release date: SUPRA (200)2)
(1) Nature of proceeding (i.e., petition for review, habeas petition):N/A	
(2) Case number or citation: N/A	
(3) Result (attach a copy of the court's opinion or order if available):	
ALSO SEE PAGES 6 & 7FOR EXHAUSTION:	

CIV 68 (Rev. Jan. 2006)

COGNIZABLE FEDERABLE CLAIMS

GROUND ONE:

(WHEN CDCR'S METHOD) FOR ATTAINING MULTIPLE JUDICIALLY AMENDED SENTENCING DOCUMENTS TO STOP & START THE EXECUTION OF PET. TERM UNTO PETITIONERS KNOWLEDGE DENIED EXCULPATORY PUBLIC RECORDS OF TERM BEING JUDICIALLY AMENDED UNTO PETITIONERS KNOWLEDGE; (CITE) PETITIONER HAS A FEDERAL COMMON LAW RIGHT TO SERVE OUT THE EXECUTION OF HIS TERM UNINTERUPTED-WINTHROW V WILLIAMS SUPRA (1993); U.S. CONSTITUTION ARTICLE 4; & 5, 14TH. AMENDMENT:

GROUND TWO: RESULTS OF PET. (NOT) BEING NOTIFIED OF AMENDMENTS:

(5-26-92/ABSTRACTS) EXECUTION OF TERM RECALCULATED BY (CDCR) UNTO PET. KNOWLEDGE DEPRIVED PETITIONER OF HIS 14TH. AMENDMENT DUE PROCESS RIGHTS TO CHALLENGE THE AMENDMENT HERE IN (1992); AS CDCR USED AGAIN BARREN OF RECORD FORGED COMMITMENT DOCUMENTS TO EXECUTE PET. TERM IN ERROR. (CITE) GARLOTTE V FORDICE, 515 U.S. 39,44,47 (1995)

FOR THE RECORD: PET. 1993 & 1994-ABSTRACTS WERE RECEIVED BY CDCR BARREN
OF RECORD:

AT THIS TIME (10-13-95) THE EXECUTION OF PETITIONERS TERM SHOULD HAVE BEEN TERMINATED.

CDCR ADMITTS TO (NOT) HAVING LEGAL DOCUMENTS ON TIME TO RECORD PET.

COMMITMENT. CDCR POINTING OUT ERRORS WITHIN PET. TERM AT THIS TIME IN/95 CLARIFY'S THE FACT OF CDCR'S KNOWLEDGE OF ILLEGALLY HOLDING PET. IN THEIR CUSTODY ON AN UNAUTHORIZED TERM WITHOUT DUE PROCESS & WITHOUT VALID DOCUMENTATION TO CONTINUE TO RECORD & ALLOW THE PET. TO SERVE OUT THE EXECUTION OF A SENTENCE ON A VOID TERM: UNCONSTITUTIONALLY. (CITE) MORRISSEY V BREWER US (1972)

GROUND THREE

AFTER CDCR NOT HAVING COMMITMENT DOCUMENTS TO IMPLEMENT PETITIONERS PAROLE DATE CDCR EXCEPTS (12-13-95/IN ERROR ABSTRACTS) & CDCR FALSIFIES THEIR OWN DOCUMENTS (LPU-TRANSMITTAL NOTICE/CDC1130-FORM-SEE PRISON CASE FILE) TO FALSELY CLARIFY THEIR REASON FOR EXCEPTING (95/ABSTRACTS); VIOLATING PET. DUE PROCESS RIGHTS TO EQUAL PROTECTION TO LIFE & LIBERTY UNDER THE U.S. 14TH. AMENDMENT. (CITE) MORRISSEY V BREWER US (1972);

CONSTITUTIONAL LAW: 14TH. AMENDMENT DOES NOT GUARANTEE STATE PRISONERS PARTICULAR METHOD OF CALCULATING PRISON SENTENCES, BUT WHEN STATE ITSELF CREATES STATUTORY RIGHT TO RELEASE FROM PRISON, STATE ALSO CREATES LIBERTY INTEREST AND MUST FOLLOW MINIMUM DUE PROCESS APPROPIATE TO CIRCUMSTANCES TO INSURE THAT LIBERTY IS NOT ARBITRARILY ABROGATED; U.S.CONST. 5,14TH.

HERE: PETITIONERS "MENTION" OF STATE ERRORS WITHIN ANY SUPPORTING

ARGUMENTS, EXAMPLE: GUISE OF CLERICAL ERROR & ESTABLISH THE REFILING

OF 667-CHARGE; IS ONLY TO KEEP FROM MAKING A BALD ASSERTION IN

THE ARGUMENT/S (OR OTHER ARGUMENTS AS WELL) AGAINST (CDCR'S ERRORS RISING TO FEDERAL VIOLATIONS)

CONTINUANCE OF: COGNIZABLE FEDERAL CLAIMS: GROUND 3,4,5:

FURTHER RESULTS BARREN OF RECORD AMENDED UNTO PETITIONERS KNOWLEDGE (12-9-99/ONE & ONLY) MINUTE ORDER TO ANY OF THE ABSTRACTS) & THE-12-15-99/ABSTRACTS) THE CURRENT COMMITMENT DOCUMENTS CDCR USE'S TO EXECUTE PET. TERM UNCONSTITUTIONALLY:

SUMMARY OF TOTAL RESULTS: THE AMOUNT OF TIMES (CDCR) HAS VIOLATED PETITIONERS DUE PROCESS RIGHTS (UNDER THE FOURTEENTH AMENDMENT) EVIDENCED BY THE MULTIPLE NOTICES FROM (CDCR) TO THE CRT. UNPROVIDED TO THE PETITIONER & THE AMOUNT OF UNCERTIFIED BARREN OF RECORD ABSTRACTS ACCEPTED BY CDCR FROM THOSE (NOTICES) TO THE CRT. & (CDCR FALSIFYING THEIR OWN DOCUMENTS) & (CDCR-MOTION-TO CORRECT 95/ABSTRACT) RESULTING IN CDCR GRANTING JURISDICTION CHANGE TO COMMITTING CRT. OF PET. CASE, CAUSED PET. TERM TO BE EXECUTED UNCONSTITUTIONALLY FOR HIS ENTIRE TIME OF INCARCERATION NOT ONLY RISING TO COGNIZABLE FEDERAL CLAIMS BUT ALSO TO THE DEGREE OF A MANIFEST MISCARRIAGE OF JUSTICE (CREATED & CARRRIED OUT BY CDCR). (CITE) FRANK MANGUM, U.S. 237 AT 326,327,328,330,331,335,345;

SEE APP: A-3: FOR REQUEST OF JURISDICTION CHANGE TO RIVERSIDE COUNTY:

GROUND FOUR

AS CDCR KNOWINGLY CALCULATES PETITIONERS RELEASE DATE WITH UNAUTHORIZED TERM (CDC RRESENTENCE) PETITIONER ON THEIR OWN AUTHORITY VIOLATING PET. FEDERAL DUE PROCESS RIGHTS. ON THIS SPECIFIC MATTER OF ILLEGAL-RESENTENCE CDCR VIOLATING THEIR OWN POLICY. WAS DUE TO RECOGNIZING ANOTHER ERROR IN PET. TERM THAT CDCR NEVER INQUIRED TO THE CRT. ABOUT THIS PARTICULAR ERROR...SEE APP: C-4 & 5....
THIS IS ALL DONE WHILE CDCR EXECUTES PET. PAROLE DATE BY WAY OF INACCURATE (APP.-OPINIONS). (CITE) JENNINGS V RAGEN, SUPRA 358 US AT 277:

GROUND FIVE

ALL ABSTRACTS OF JUDGMENTS THAT (CDCR) HAS EVER EXCEPTED TO EXECUTE PETITIONERS TERM/COMPUTATE RELEASE DATE ARE FORGED (NO-SENTENCING TRANSCRIPTS/MINUTE ORDERS) ARE BARREN OF RECORD UNCERTIFIED COMMITMENT DOCUMENTS. (CITE) ROGERS V MAGIO, SUPRA 714 F2D AT 37; LOFTON V PROCUNIER, 436,487 (9TH. CIR 1973)
(CITE) TOWNSEND V SAIN, (1963) 372 US 293, 9 L ED 2D 770,83 S CT 1715; (CITE) KEENEY V TAMAYO-REYES, 504 U.S. AT 12 (1992) SUPRA;

CONSTITUTIONAL LAW: ADEQUATE OR DUE PROCESS DEPENDS UPON NATURE OF INTEREST AFFECTED; THE MORE IMPORTANT INTEREST AND GREATER EFFECT OF ITS IMPAIRMENT, THE GREATER PROCEDURAL SAFEGAURDS STATE MUST PROVIDE TO SATISFY DUE PROCESS; U.S.CONST. 5,14TH. WITHIN PETITIONERS CASE HERE: THERES BEEN ZERO SAFEGAURDS PROVIDED TO THE PETITIONER BY CDCR FOR 18YRS.

(UNCONSTITUTIONAL SENTENCING OF AN INDIVIDUAL IN ABSENTIA...IS A STRUCTURAL ERROR AND...CANNOT BE AFFIRMED ON THE BASIS OF HARMLESS ERROR) HAYS V ARAVE, 977 F. 2D 475, 479 (9TH. CIR 1992); IN WHICH HAPPEN TO PETITIONER ON 5-26-92/ABSTRACIS, 12-13-95/ABSTRACIS & 12-9-99/12-15-99/ABSTRACIS, WHERE PETITIONER WAS ABSENT NOR INFORMED OF JUDICIAL AMENDMENTS:

-35-

23. Do you have any petition or appeal now pending in any court, either state or federal, pertaining to the judgment under attack? ☐ Yes ☐ No 4/1 24. If your answer to #23 is "Yes," give the following information: (a) Name of Court: (b) Case Number: (c) Date action filed: (d) Nature of proceeding: (e) Name(s) of judges (if known): (f) Grounds raised: (g) Did you receive an evidentiary hearing on your petition, application or motion? ☐ Yes ☐ No 25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein: (a) At preliminary hearing: (b) At arraignment and plea: ___ (c) At trial: (d) At sentencing: (e) On appeal: (f) In any post-conviction proceeding: (g) On appeal from any adverse ruling in a post-conviction proceeding:

 26. Were you sentenced on more than one coun indictment, in the same court and at the same. Yes □ No 27. Do you have any future sentence to serve af judgment under attack? □ Yes □ No 	e time?
	that imposed sentence to be served in the future:
(b) Give date and length of the future sen	tence:
imposed the sentence to be served in the Yes No 28. Consent to Magistrate Judge Jurisdiction In order to insure the just, speedy and inexpens in this district, the parties may waive their right magistrate judge jurisdiction. Upon consent of jurisdiction, the magistrate judge will conduct along The parties are free to withhold consent without the Court encourages parties to consent to a resolution of this matter. If you request that a matters, a magistrate judge will nevertheless hear	ive determination of Section 2254 habeas cases filed at to proceed before a district judge and consent to f all the parties under 28 U.S.C. § 636(c) to such I proceedings including the entry of final judgment. adverse substantive consequences. magistrate judge as it will likely result in an earlier district judge be designated to decide dispositive and decide all non-dispositive matters and will hear
including the entry of final judgment, by indica	conduct any and all further proceedings in this case,
Choose only one of the following: Plaintiff consents to magistrate judge jurisdiction as set forth above.	Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29.	Date you are mailing (or h	anding to a correcti	onal officer) t	his Petition to this co	urt:
		JULY 21	2008		

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

7-27-08 Jony Maby
(DATE) SIGNATURE OF

(PRAYER FOR RELIEF)

- 1. Petitioner "PRAYS" that this Honorable-Court grant him relief from being illegally confined.
- 2. Petitioner request that it be (notarized) that he's been illegally committed into & confined by the "Department Of Corrections-CDCR".
- 3. Petitioner "PRAYS" that this Honorable Court "specify" all civil-rights violations that were committed against him.
- 4. Petitioner "PRAYS" that this court "specifies" that CDCR has been calculating his term in error with unverified documents.

Respectfully Submitted: Towy MARRY
- 7-11-08

-10-

(\dot{A} P P E N D I X - A :)

APPENDIX-A: 1-THRU-4:

SUPERICA COURT OF CALIFORNIA, COUNTY OF RIVERSIDE 4100 Main St.
Riverside, CA 92501

People of the State of California Vs.
TONY MABRY

Case No. CR37941

MINUTE ORDER

Motion Set For CORRECTION OF ABSTRACT

Date: .12/09/99 Time: 8:30 am Dept/Div: 51

Charges: 1) 187 PC-F C, 2) 12021 PC-F C, 4) 246 PC-F C, 999) 667 PC-F T

Honorable J. THOMPSON HANKS Presiding.

Clerk: S RUIZ

Court Reporter: B LANE

People Represented By J.RUIZ, DDA.

Defendant Represented By CDP-J. AQUILINA.

Defendant is Not Present.

At 8:50, the following proceedings were held:

Motion By Dept of Corrections Regarding Correction of Abstract

is called for hearing.

Upon review of minute order of sentencing and

abstract

Counsel Stipulate: Minute order is correct. Counsel Stipulate: Abstract in incorrect..

Counsel Stipulate: Count 1 on abstract should read 25 years to

life

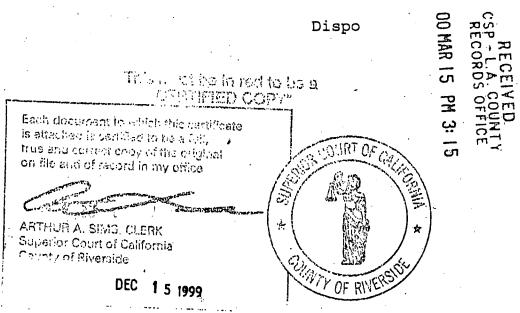
Motion Granted.

The Court orders Abstract corrected.

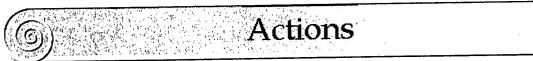
Defendant No Longer in custody for the reason: In custody of

Calif. Dept of Corrections.

MINUTE ORDER OF COURT PROCEEDING



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Def. Info

Actions Charges

Minutes

Probation

Case Report

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Open Quick Search

Defendant 1 - MABRY, TONY 6 Of 2

Case CR37941 Defendant 5229, MABRY TONY

Move To This Date

Related Cases On Calendar

This Defendant Does Not Have Any Other Cases With Future Hearings Scheduled.

Actions On Case

Action Date	Action Text	Disposition	Hearing Type
12/26/2007 8:30	EX PARTE HEARING RE: VERIFICATION CCP446 & 201.5 - Minutes	DISPOSED	
12/16/2007 2:05 PM DEPT. 63	CORRESPONDENCE FROM DEFENDANT CCPSEC 446 & 201.5 FILED.	·	
07/17/2000	CRIMINAL EXHIBITS DESTROYED 07/13/00 (REFER TO ED)		
12/15/1999	FILED: 5TH AMENDED ABSTRACT OF JUDGMENT - LIFE		
12/15/1999	FILED: 5TH AMENDED ABSTRACT OF JUDGMENT.		
12/15/1999	CERT.CPY OF MINUTE ORDER ABSTRACT OF JUDGMENT DATED: 12/09/1999 SENT TO DOC (KSTAF).(REFER TO CCSD)		
12/09/1999 8:30 AM DEPT. 51	MOTION SET FOR CORRECTION OF ABSTRACT - Minutes	DISPOSED	
12/02/1999	CHANGE COURT OF JURISDICTION TO RI		
11/18/1999	REC'D LTR FROM DOC DATED: 11/12/1999 TO DEPT. 51.		·
Q6/07/1999	ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS IS DENIED ; J. THOMPSON HANKS		
06/03/1999	PETITION FOR WRIT OF HABEAS CORPUS FILED		
12/16/1997	EXHIBITS DESTROYED		<u> </u>
11/19/1997	CRIMINAL EXHIBITS DESTROYED 111397 (REFER TO ED)		
03/25/1997	NOTICE OF DESTRUCTION OF		H-3

	EXHIBITS/DEPOSITIONS FILED.		
08/02/1994	COPIES SENT TO CDC/DJD		
07/13/1994	FILED: AMENDED ABSTRACT OF JUDGMENT		
07/01/1994	FILED: REMITTITUR-OPINION-AFFIRMED/REMAND TO CORRECT ABST		
07/27/1993	FILED: CLKS TRANS CERT & FWD TO CRT		
07/26/1993	FILED: ORDER TO AUGMENT/CLAYTON SEAMAN		
07/21/1993	FILED: ORDER TO AUGMENT/HANDY HORIYE		
06/29/1993	FILED: RPTRS/CLKS TRANS CERT & FWD TO CRT		
06/25/1993	FILED: REPORTERS TRANS OF ORAL PROCEEDINGS		
05/14/1993	FILED: AMENDED ABSTRACT OF JUDGMENT/INDETERMINATE		
05/14/1993	FILED: AMENDED ABSTRACT OF JUDGMENT/PRISON COMMITMENT	·	
04/13/1993	FILED: NOTIFIC OF FILING NTC OF APPEAL		
04/13/1993	FILED: NTC TO PREPARE TRANS ON APPEAL		
03/26/1993	FILED: NTC OF APPEAL/EO12595		
03/19/1993 10:00 AM DEPT. 62	HEARING ON REMITTITUR (REFER TO HR) - Minutes	DISPOSED	
02/26/1993 1:30 PM DEPT. 62	HEARING ON REMITTITUR (REFER TO HR) - Minutes	DISPOSED	
01/29/1993	FILED: RECD/ORDER FOR TRANSPORTATION(HG: 2/26/93).		,
01/28/1993	FILED: RECD/LTR FROM DA FOR DEFT TO APPEAR (HG:2/26/93)		
01/06/1993	FILED: REMITITUR: OPINION AFFIRMED&RESENTENCE		
03/11/1992	FILED: BENCH WARRANT CLEARED BY ARREST FOR WITNESS 4-8-91		
03/04/1992 8:30 AM DEPT. 62	MOTION F/P RE: B/WARRANT ARR OF WITNESS GWENDOLYN TILLSON - Minutes	DISPOSED	
11/25/1991	FILED: RECPT FR AG		
11/14/1991	FILED: SUPPLEMENT REPTS TO CT. OF APPEAL		
10/23/1991	FILED: SUPPLEMENT NTC TO PREP.TRANS.ON APPEAL		
09/18/1991	FILED: ORD./R. CLAYTON SEAMAN TO REP.DEFT.		
08/30/1991	FILED: REPORTERS TRANSCRIPT OF ORAL PROCEEDINGS		
08/29/1991	FILED: CLKS/REPTS TRANS.TO CT. OF APPEAL		
08/22/1991	FILED: 2ND AMENDED NTC.TO PREP.TRANS.ON APPEAL		
07/31/1991	FILED: AMENDED NTC TO PREP. TRANS. ON APPEAL		
06/07/1991	FILED: NOTIFICATION OF FILING NTC. OF APPEAL		
06/07/1991	FILED: NOTICE TO PREP. TRANS.ON APPEAL		

 $http://public-access.riverside.courts.ca.gov/OpenAccess/CRIMINAL/actionlist.asp?action 1... \ \ 2/27/2008$

(A P P E N D I X - E :)

APPENDIX E: ONE-1A-THRU-5:

RECEIVED CAL APPEALS DEC 2 1 20	007	Filed 07/29/2008 Page 27 of 33	
INMATE / PAROLEE APPEALVE CAMPEALS FEB 1 3 CDC 802 (12/87)	Location: Institution/Parole Region .	Log No. B 07 02 3 0 5	J_
committee actions, and classification and state member, who will sign your form and state	affrepresentative decisions, you must first ir e what action was taken. If you are not the al page of comments to the Appeals Coordin	pon you. With the exception of Serious CDC 115s, nformally seek relief through discussion with the app en satisfied, you may send your appeal with all th ator within 15 days of the action taken. No reprisals	propriate s ne suppor
MABRY, TONY	NUMBER ASSIGNMENT D-90450	UMS/R	OM NUMB
Abstract Of Judgem 1991/2/3/4/5/99)Th the proof of alter have been violated I can not be held A liberty issue. If you need more space, attach one addition B. Action Requested: I; am order immediately & order	nents within my C-File, ne current DSL-290 has ring can be determined. I under the 8TH. & 14TH to wait for redress with the state of the custody of the cus	to be in question when My Due Brocess Rights H. Amendment. ithout due process recall of my committment	there
utional rights hav	ve & continue to be vi	olated without due process	
	zziainoj	Date Submitted: 12.1	1 AUC
Staff Response:)		
Staff Response:	Con		
C. INFORMAL LEVEL (Date Received: Staff Response: Staff Signature:	CSP CAL BYP	Date Returned to Inmate:	

Note: Property/Funds appeals must be accompanied by a completed

Board of Control form BC-1E, Inmate Claim SCREENED OUT

Signature: .

FEB 15 2008 8 14

U.S.C.A 5 6 42 U.S.C.A 19 1983 APP: E - ONE -

CAL

B 07 02 3 0 5

CDC Appeal Number:

Date Submitted: ___

BORRES: 05-64-06965-BENIESP BOCHMENT DELDIECOS/29/2008/Page 28 of 33 RECEIVED CAL APPEALS JUN 25 2008 Location: Institution/Parole Region Log No. INMATE/PAROLEE **APPEAL FORM** CDC 602 (12/87) You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly. UNIT/ROOM NUMBER NUMBER ASSIGNMENT If you need more space, attach one additional sheet. NB. Action Requested: RECEASED INMEDIATELY Date Submitted: 6-23-08 nmate/Parolee Signature: INFORMAL LEVEL (Date Received: _ Staff Response: Date Returned to Inmate: Staff Signature: D. FORMAL LEVEL If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Note: Property/Funds appeals must be althorized a completed Board of Congress (NOTE) Inmate Claim

5-6-8-14TH. U.S.CA

42-US.C. 1983

RILL OF RIGHTS

APP: E-1- A

CDC Appeal Number:

1-01-2

Date Submitted: _

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE 4100 Main St.
Riverside, CA 92501

People of the State of California Vs.
TONY MABRY

CASE NO. CR37941

MINUTE ORDER

Ex Parte Hearing Re: VERIFICATION CCP446 & 201.5 Date:.12/26/07 Time: 8:30 am Dept/Div: 63

Charges: 1) 187 PC-F C, 2) 12021 PC-F C, 4) 246 PC-F C, 999) 667 PC-F T

Honorable Judge Michele D. Levine Presiding.

Courtroom Assistant: I. Monaco

Court Reporter: None.

Defendant is Not Present.

Court has read and considered VERIFICATION DATED 12/6/07 FROM

DEFENDANT.

CCP 446 & 201.58 U.S.C. SECTION 1746

Motion Denied.

Remains remanded to the Division of Adult Institutions.

COPY OF THIS ORDER FORWARDED TO THE DEFENDANT

MINUTE ORDER OF COURT PROCEEDING

Dispo

ENDORSED MAR 2 8 2008 By. MARISA DIXON Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

In re

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Tony Mabry,

No. 08F01114 Dept. 15

ORDER TRANSFERRING

On Habeas Corpus.

PETITION

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The petition for writ of habeas corpus, filed in this court on February 4, 2008, by Tony Mabry alleges that officials at Calipatria State Prison have failed to comply with his request for documents related to his case. Good cause appearing,

IT IS HEREBY ORDERED that the petition is transferred to the court of the county where petitioner is incarcerated, the Superior Court in and for the County of Imperials, pursuant to Rule 4.552(b) of the California Rules of Court and Griggs v. Superior Court (1976) 16 Cal.3d 341.

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JUDGE HELENA R. GWEON

HONORABLE HELENA R. GWEON JUDGE OF THE SUPERIOR COURT

CERTIFICATE OF SERVICE BY MAILING ATTACHED.

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Page 31 of 33 San Francisco County Superior Court 1 MAY 2 7 2008 2 GORDON PARK-LI. Clerk 3 Deputy Clerk SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE CITY AND COUNTY OF SAN FRANCISCO 5 Department No. 22 6 IN THE MATTER OF THE APPLICATION WRIT NUMBER 5756 7 OF 8 Tony MABRY ORDER Petitioner, 9 FOR A WRIT HABEAS CORPUS 10 11 Tony Mabry ["Petitioner"] has filed a petition for writ of 12 habeas corpus in San Francisco Superior Court requesting 13 documents in Riverside County Superior Court Case Number CR-14 37941. 15 16 Because this Court does not possess the records Petitioner 17 requests, it transfers the petition to Riverside County Superior 18 Court, the county of conviction. (In re Roberts (2005) 36 19 Cal.4th 575, 583-85, as mod.) It is so ordered. 20 21 22 23 24 25

Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

DATE/TIME : JUNE 30, 2008

DEPT. NO : 15

JUDGE : HELENA R. GWEON

CLERK : P. MERCADO

REPORTER : N/A BAILIFF : N/A

IN RE: TONY MABRY

Case No.: 08F03348

Nature of Proceedings: PETITION FOR WRIT OF HABEAS CORPUS - ORDER

The petition for writ of habeas corpus has been filed and considered. It is DENIED.

Petitioner again seeks records of correspondence between the prison Legal Processing Unit and Riverside County, where petitioner was sentenced. This is the same request as one made in a previous petition that this court transferred to Imperial County, where petitioner is incarcerated.

In criminal cases, a court has inherent power to reconsider its rulings. (People v. Castello (1998) 65 Cal.App.4th 1242.) Code of Civil Procedure \$1008(a), which provides that reconsideration requests must be based on "new or different facts, circumstances or law," is directory in criminal cases and indicates that courts must "exercise due caution before modifying, amending or revoking prior orders." (Id. at p. 1249.)

Petitioner's request for records is unchanged, and the court has no reason to revise its previous ruling. As the court has explained, petitioner was neither sentenced by this court nor incarcerated in this county, and venue is proper elsewhere.

DATED: JUNE 30, 2008

HONORABLE HELENA R. GWEON

Judge of the Superior Court of California, County of Sacramento

Certificate of Service by Mailing attached.

BOOK : 15

PAGE

Superior Court of California,

County of Sacramento

DATE : JUNE 30, 2008

CASE NO. : 08F03348

CASE TITLE : IN RE: TONY MABRY

BY: P. MERCADO,

Deputy Clerk

Page 1 of 2

STATE OF CALIFORNIA COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

TONY MARRY

DECLARE UNDER PENALTY OF PERJURY

PETITIONER

IN THE ABOVE ENTITLED ACTION

THAT: I AM THE PETITIONER IN THE ABOVE ENTITLED ACTION;
I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS
TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND
BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 7-27 DAY OF: JULY 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) Janus Maby D-90457 (DECLARANTERISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I. TOWY MARKY

AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY

OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOTA PARTY OF THE ABOVE ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002.

CALIPATRIA, CALIFORNIA #92233-5002.

PAUPERIS/4-PAGE RETURN ORDER-6-13-08: 39-PAGES TOTAL:

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S). WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

OFFICE OF THE CLERK 880 FRONT ST. SUITE 4290 SAN DIEGO, CA. 92101-8900

"MAIL BOX RULE"

HOUSTON V LACK (SUPRA)

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: 7-27-08

My Matigodisoner